arising from Section 301 of the National Labor Relations Act, as amended, but rather founded its claim on some rather early Indiana wage statutes. Once this is understood, the lower Court had no choice but to apply Indiana law in all respects to petitioner's claim for relief, since petitioner "frankly recognizes the case as a state action." (Opinion of the Circuit Court, p. 19 of Petitioner's Appendix attached to its Petition herein.) It is clear that to dispose of this matter neither this Court nor the Court below is required to dispose of a federal question, since the primary issue raised by the record herein (under Indiana law what was the applicable period of limitations) requires no formulation concerning federal law. If for no other reason the petition for a writ should be denied.

Finally, the lower Court's decision is not in conflict with the opinions of this Court in such cases as *Textile Workers* v. *Lincoln Mills,* 353 U. S. 448, 77 S. Ct. 912 (1957); *Charles Dowd Box* v. *Courtney,* 368 U. S. 502, 82 S. Ct. 519 (1962); *Local 174, Teamsters* v. *Lucas Flour,* 369 U. S. 95, 82 S. Ct. 571 (1962), to the effect that national uniformity in Section 301 cases is desirable. Assuming only *arguendo,* however, that respondent has raised an issue as to national uniformity, once again it does so by misapplying the law to the facts in this case. At page 10 of its petition, petitioner states: "This Court has long ago ruled that statutes of limitations *so far affect substantive rights as to require that the limitations rule of the jurisdiction creating the substantive rights apply irrespective of the forum involved.*" This rule does not apply here because obviously substantive rights were created by the law of the State of Indiana which did contain a statute of limitations. If it is assumed, *arguendo,* that the claim for wages was created by Section 301 as a new substantive right, wich respondent denies, no statute of limitations is contained in said statute creating such right.

Therefore, the Court below was required under well established principles to look to the Indiana statute of limitations for the applicable limitations period. In this sense, a uniform rule already exists for actions under Section 301 of the National Labor Relations Act, as well as any other federal statute without a specific period of limitations, since the federal Courts uniformly apply the appropriate state statute as interpreted by the state courts involved.

IV.

THE FACTS IN THE RECORD RAISE NO SUBSTANTIAL CONSTITUTIONAL ISSUE.

Petitioner states at page 13 of its petition that the Circuit Court's opinion raises a serious constitutional issue. This is so, according to petitioner, even though the Court below found that petitioner's complaint was founded on Indiana statutes, and under Indiana law a contract partially in writing and partially in parol must be treated, for purposes of a period of limitations, as a parol contract.[2] It is argued at p. 15 of the petition herein that the opinion below violates Article III of the Federal Constitution by giving the federal courts jurisdiction to resolve a question of state law. Even disregarding the fact that under the appropriate federal rule this was what the Circuit Court

2. Although petitioner does not dispute that this is the Indiana rule in its petition, the following authorities show that under Indiana law a contract partly in parol and partly in writing is governed by the six year period of limitations applicable to contracts not in writing: *Michael* v. *Rainer*, 205 N. E. 2d 543, ... Ind. .... (1965); *Board of Commissioners of Marion County* v. *Shipley*, 77 Ind. 553 (1887); *Carskaddon* v. *City of South Bend*, 141 Ind. 596, 39 N. E. 667 (1895); *Moore* v. *Ohl*, 65 Ind. App. 691, 116 N. E. 9 (1917); *Hackleman* v. *Board of Commissioners of Henry County*, 94 Ind. 36 (1884); *Tomilson* v. *Briles*, 101 Ind. 538, 1 N. E. 63 (1885); *Higham* v. *Harris*, 108 Ind. 246, 8 N. E. 255 (1886); 6 Indiana Law Encyclopedia, "Contracts," sec. 51, p. 110; 19 Indiana Law Encyclopedia, "Limitations of Actions," Sec. 22, p. 17.

was required to do on the facts before it, it must be added that in one of the cases most heavily relied upon by petitioner, *Smith* v. *Evening News,* 371 U. S. 195, 83 S. Ct. 267 (1962), this Court found that state courts clearly have jurisdiction over actions arising under Section 301. It would seem, therefore, that the ruling in the *Smith* case clearly supports the decision of the court below in that all the lower court did was decide an issue of state law raised by the pleadings and the facts in the record before it. As to the fact that *Smith* allows state courts to apply federal law to federal questions see the observations in the dissent in this case at 371 U. S. 202-205. It is respondent's position that petitioner's assertion that the lower court's opinion raises a substantial constitutional issue can only be supported by a finding that either the principle of concurrent jurisdiction in state and federal courts be disregarded or that this Court itself was in error in determining that state courts could entertain actions under Section 301. To pose these questions is to make it clear that, in fact, the record herein raises no constitutional issue.[3]

3. It might be stated in passing that at page 11 of its petition the petitioner cites a most recent case decided by this Court, *Republic Steel Corp.* v. *Maddox,* 379 U. S. 650, 85 S. Ct. 615 (1965), and thereby injects into the issues in this case but another ground for denial of its petition. In *Maddox,* this Court reversed an Alabama state court's holding that the plaintiff (Maddox) was entitled to recover for breach of contract on the sole ground that plaintiff had failed to follow the grievance procedure as set forth in the contract between his employer and a labor union, and this even though the employer had gone out of business. The record herein is even more favorable to this respondent than to Republic Steel in the *Maddox* case, since, as shown by Exhibit A attached to petitioner's complaint, the contract between petitioner and respondent provided that "In order to become a matter for adjustment under the grievance procedure, the grievance must be presented within five (5) working days after the employee or group of employees, *or the union* has acquired knowledge of the act which is the basis of the grievance." (Emphasis supplied.) Under the *Maddox* rule, it is clear that there is no reference to anything like petitioner having filed a grievance in the record now before this Court for evaluation. It would seem certain, therefore, that in using *Maddox* as authority in support of its position, petitioner has given this Court authority for a summary denial of its petition.

CONCLUSION.

Since the decision of the Court below is clearly correct and does not conflict with the decisions of this Court or any of the Circuits, and since no important federal question is presented by this case, the petition for a writ of certiorari should be denied.

Respectfully submitted,

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